

REMARKS

Favorable action on the merits is solicited in view of the following remarks and the attached Rule 132 Declaration. Applicants thank Examiner Ali for the recent telephone discussion in which the Examiner agreed to delay acting on the case until receipt of the attached Rule 132 Declaration.

I. Claim Status

Claims 1, 2, 10, 11, 13-20 and 23-28 remain in this application and stand rejected by way of the Final Office Action of September 25, 2008 and the Advisory Action of December 31, 2008.

II. Obviousness Rejections

Claims 1, 2, 10 and 16-20 have been rejected as obvious from Schmid alone or in view of "Pigment for high performance" (hereinafter "Pigment"). Claims 1, 2, 10, 13, 14, 17, 18, 25 and 26 have been rejected as obvious under §103 from Andes either alone or in view of "Pigment". Claims 11, 15, 23, 24, 27 and 28 have been rejected as obvious under Schmid in view of Bolger and optionally further in view of "Pigment".

These rejections are all respectfully traversed for the reasons of record, respectfully repeated by reference, and further explained below.

In the Final Office Action of September 25, 2008, the Examiner maintains the obviousness rejections and states at the bottom of page 3 that:

the references teach the pigment with a layer of same material, such as silica, with an overlapping thickness coated on the substrate as applicant disclosed in the instant application, therefore, it would be expected that the pigment disclosed by the references has the same or similar properties absent any evidence to the contrary.

However, this conclusion ignores the fundamental difference noted in the responses filed December 19, 2008 and July 11, 2008 between the claimed pigment compared to pigments of Schmid USP '504 and Andes WO '617. In support thereof, Applicants hereby submit a Rule 132 Declaration by Dr. Hans-Jörg Kremitztl as evidence in the form of a showing of different or substantially better properties of the claimed pigment compared to pigments of Schmid USP '504 and Andes WO '617. The results and discussion therein make it clear that the claimed pigments are very different from that of Schmid, and do not have the same or similar properties. It is believed that the Declaration is indicative of the nonobviousness of the claimed pigments.

Therefore, for this reason and for those presented in the previous responses, the claimed pigments are believed to be novel and patentable over the cited prior art references of Schmid USP '504 and Andes WO '617, either alone or when combined. Thus, the obvious rejections are untenable and should be withdrawn. Withdrawal of the rejection is respectfully requested.

III. Conclusion

Having addressed all the outstanding issues, the reply is believed to be fully responsive to the Office Action. It is respectfully submitted that the claims are in condition for allowance and favorable action thereon is requested. If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

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Appln. No. 10/525,395

Response dated May 27, 2009

Reply to Office action of December 30, 2008

APPENDIX:

The Appendix includes the following item(s):

- Rule 132 Declaration by Dr. Hans-Jörg Kremitzl